MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1972

No. 72-586

ELMER O. CADY, WARDEN,

Petitioner,

-v.-

CHESTER J. DOMBROWSKI,

Respondent.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE AND BRIEF OF THE STATE OF FLORIDA, AMICUS CURIAE, ON BEHALF OF THE PETITIONER.

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THE CAPITOL
Tallahassee, Florida 32304

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MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Comes now the State of Florida presenting to this Court a motion for leave to file Brief Amicus Curiae, sponsored by the Attorney General of Florida pursuant to Rule 42(4).

The State of Florida has a substantial interest in the exclusionary rule as interpreted by this Court, other Federal Courts and the State Courts of Florida. Any change in the exclusionary rule as it is now applied would have a severe effect on police procedures in Florida concerning property inventories prior to a lawful impoundment.

The Attorney General of Florida is deeply concerned with the disruptive effects upon the administration of standard police procedures and the extreme position the State of Florida would be placed in by an adverse decision by this Court in reference to the exclusionary rule of evidence.

Therefore, the State of Florida, by and through the Attorney General of Florida, presents this motion for leave to file a delayed Brief Amicus Curiae.

Respectfully submitted,

ROBERT L. SHEVIN
Attorney General of
the State of Florida

A. S. JOHNSTON
Assistant Attorney
General of the State
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JAMES H. GILLIS
Legal Intern

AMICUS CURIAE

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INTEREST OF THE AMICI

The petitioner for certiorari in the above case raised four questions as follows:

1. Is a police officer engaged in a "search within the meaning of the Fourth Amendment, when, seeking to locate property of a person under arrest for drunk driving, he opens the trunk of the person's disabled vehicle and discovers what later develops to be evidence of a murder of which he had no previous knowledge or suspicion?

   The Court of Appeals held in the affirmative.

2. If the first question is answered in the affirmative, is such a search "unreasonable" within the meaning of the Fourth Amendment?

3. Where a judge issues a written order for the search and an oral order for impounding of a vehicle for evidence of the crime of murder and the vehicle is thereafter seized and removed to a police garage, is evidence obtained in the search the following day admitted at trial in violation of Fourth Amendment rights?

   The Court of Appeals held in the affirmative.

4. Does the "exclusionary rule" serve society's needs?

The Attorney General of Florida is concerned with Questions 1, 2 and 4.

The interest of the Attorney General of the State of Florida in these questions is substantial. As chief legal officer of the State of Florida, the Attorney General is concerned with maintaining a fair balance between effective law enforcement to protect society against crime and the observation of the constitutional safeguards within the foundation of the administration of criminal justice. As counsel to the officers of this State, the Attorney General is concerned with the seriously disruptive effects upon the administration of standard police procedures concerning the inventory of property to be impounded by the State.

Mindful of the precedents that this case may establish with regard to property inventories and the application of the exclusionary rule to evidence obtained during such necessary inventories, the State of Florida presents its position in this brief amici curiae filed with the Court.

QUESTION PRESENTED

Whether the exclusionary rule of evidence as developed and interepreted by the courts prior to the Seventh Circuit Court of Appeal reversal of the case sub judice, adequately served society's needs.

SUMMARY OF ARGUMENT

We oppose the extension of the constitutional restrictions concerning the use of evidence produced during an unreasonable search and seizure to evidence produced during a standard police inventory procedure. The constitutional prohibitions were intended to cover unreasonable searches and seizures. Inasmuch as the standard police procedure of property inventory satisfies the two-fold requirement of protecting the property of the individual and protecting the State from erroneous claims, the procedure is not unreasonable. Being not unreasonable, the inventory procedure does not fall within the Constitutional mandates of the Fourth Amendment.

ARGUMENT

The people of the State of Florida, following closely the Fourth Amendment to the Constitution of the United States, have preserved the right "to be secure in their persons, papers and effects against unreasonable searches and seizures." The organic law of the State of Florida forbids the issue of search warrants "except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized . . ." Florida Constitution, Art. I, Sec. 12, 1968.

These expressions of our organic law stem from the principle of the common law securing to every citizen in his home and office immunity from interference by the State and protection of his person, property and papers from legal process.

Justice Glenn Terrell of the Supreme Court of Florida noted:

> Prior to the Revolution, the liberty of the citizen in the colonies was harrassed by writs of assistance in the hands of revenue officers to search designated places for

smuggled goods, persons, and papers. In this country and in England, executive warrants were issued to search private houses to recover books and papers that might be used as evidence against the owner. The practice was the remnant of a jurisprudence that had its roots in prerogative as against democratic power and was often accompanied by ruthless intrusion of governmental agents into private homes and effect to secure evidence for political prosecutions. These writs were exasperating to the citizen, contrary to every democratic impulse and were considered the most flagrant examples of arbitrary power known to the people, hence the language of the Fourth Amendment which was repeated in all the State Constitutions. Church v. State, 9 So. 2d 164, at 166-7 (Fla. 1942).

The purposes of the Fourth Amendment are as vital today as they were when the Amendment was passed by Congress in 1789. These purposes, however are not unlimited. Only "unreasonable" searches and seizures were targeted for legislative and judicial inundation.

When searches and seizures were made within the spirit of the Constitutional mandates, the courts have been diligent in the protection of our precious liberties but have not permitted these very mandates to

shield those engaged in illegal acts. Also, it has been made adequately clear that the protections afforded by the Amendment extends to "those suspected or known to be offenders as well as the innocent . . ." Ker v. California, 374 U.S. 23 at 32, 83 S.Ct. 1623, 10 L.Ed. 2d 726 at 737 (1963).

Two situations have developed generally which require an officer of the law to search an automobile. One is the search authorized by a search warrant issued under the authority of the state statutes. The other is the search made incident to a lawful arrest to secure from destruction or loss evidence for use in the prosecution of the arrested individual and/or to protect the officer from possible dangers from accessible weapons.

There is another situation that has developed from the ever expanding use of the automobile. It has become a burdensome requirement of the law officer to secure and impound automobiles when various situations require, such as the automobile abandoned in traffic, parked in an ambulance route to a hospital, or where the driver has been rendered disabled by illness or alcohol or even drugs and there is no one to take custody otherwise. This taking custody for whatever reason would suggest that the officer is morally and legally responsible for the property of the individual owner. Under such circumstances, there must be a listing

of the property impounded. This requirement satisfies a two-fold problem. It secures the property for the involved individual citizen and also sets forth both a good faith showing by the State that the listed property is secure from theft and at the same time protects the state from wrongful accusations of conversion. See: United States v. Mitchell, 458 F.2d 960 (9th Cir., 1972). Regardless of what procedural title is placed on it, a search must be conducted to make a meaningful inventory of each item and its condition of impoundment.

The case of Roush v. State, 203 So. 2d 632 (Fla. App. 1967), is one example where the inventory procedure is required. The Appellant, Roush, was observed by a Miami Beach policeman to be speeding and driving in an erratic manner. He finally parked after being pursued for some distance. Upon his arrest for reckless driving and driving while under the influence of intoxicating liquor, the appellant told the officer there was $1,200 in cash in the automobile. Further, he told the officer that he was not going to tell where it was and that now it was the concern of the police. He said they "could find it if they wanted to." At the same time, he boasted that they would not be able to find the money.

The appellant's little game backfired. No "money" was found but the

officers discovered a briefcase containing a "valuable" quantity of phenobarbital. The drugs were used as evidence in the appellant's subsequent conviction.

Chief Judge Charles Carroll of the Third District Court of Appeal of Florida noted:

> ...[I]t was a normal and prudent action on the part of the police to search the automobile in order to protect the city as well as the arrested party from the effect of possible loss of money, if in fact it was in his automobile. Discovery of the barbiturates was the result of their search for the money, which the state contends, and we agree, was invited, impliedly if not expressly, by the statements made by the appellant when arrested. 203 So. 2d 632, at 633-4.

The Court treated the search as one based on implied consent. But it should matter little whether there is consent when the owner of the property either refuses consent or is incapable of giving consent where the officer is duty bound to conduct an inventory.

The unavailability of the owner's consent has not been used as a blanket to cover other procedural errors in this sensitive constitutional area of the law. The case of Miller v. State, 137 So. 2d 21 (Fla., 1962), provides

an example of the lengths to which the Florida courts will go to protect the people from unreasonable searches and seizures.

One Miller, on January 28, 1961, was involved in an automobile accident in Clearwater, Florida. Officers found him unconscious and saw in defendant's open glove compartment a large amount of money and adding machine tapes bundled together with paper clips and rubber bands.

Miller was hospitalized and later arrested at the hospital for making an improper turn. His wrecked automobile was impounded. Without a search warrant the officer and his superior went to the impounding garage. There they lifted the floor mat and found another bundle of adding machine tapes plus a number of lottery tickets. The appellant Miller was convicted of possession of lottery tickets on the evidence taken from the automobile.

From the testimony given by the officer, it was readily apparent that the search of the appellant's automobile was more than a mere listing of the content and condition thereof. The officer and his superior were making a search for incriminating evidence in every sense of the word. Their suspicions were hardly a substitute for probable cause.

The court clearly noted that an inventory for articles of value, if made

at all, should have been made prior to impoundment. The act of lifting the floor mat of Miller's impounded automobile, coupled with the officer's suspicion, constituted an unreasonable search and seizure. The court simply would not allow such conduct to be labeled an inventory. Miller was granted a new trial.

In a similar Florida case, sans suspicion, the courts upheld the inventory as not being an unreasonable procedure. The arresting officer in Gagnon v. State, 212 So. 2d 337 (Fla. App., 1968) first observed the appellant's automobile in front of a house which was under prior surveillance. The officer followed the automobile. When several traffic violations were observed, the driver was signaled to the side of the road. The vehicle was parked and locked. The driver was recognized and arrested pursuant to a bench warrant issued for previous traffic violations. When asked, the driver said he had borrowed the automobile. The driver failed to identify the lender and gave a home address which the officer knew was erroneous.

The accumulation of these and other circumstances caused the officer to arrest the appellant. A wrecker was radioed to haul in the automobile. Before it arrived an inventory of the automobile was made. The inventory is a routine police procedure when an automobile is being taken into custody. During the inventory a brown paper sack was discovered. It contained

credit cards used in the commission of crimes of which the appellant was convicted.

The Court, per Judge Pearson, held that the arrest was lawful and the inventory was not an unreasonable search and seizure. The inventory of the automobile and its valuable contents was not the result of any suspicion by the officers but rather a routine police procedure.

As Florida District Court of Appeal Judge McNulty so ably noted:

> "Here, there can be no question but that the search was for 'inventory purposes alone. The officers admitted they were not suspicious of possible incriminating evidence being in the car and if they were suspicious, such suspicion would be without reasonable foundation. Godbee v. State, 224 So. 2d 441 at 443 (Fla. App., 1969).

The officers in Godbee were faced with the following situation: A car belonging to the defendant who they had just arrested was left locked and standing illegally on the sidewalk; the defendant had made good a subsequent escape and there was nothing to indicate that he would soon return; and their duties required that they cause the car to be hauled from the illegal area to a place of protection. They were also duty bound by standard police procedures to inventory the car

and its contents both for the preservation thereof and to insulate themselves and their agent, the impounding garage owner, from possible responsibility in the event of theft or destruction. Judge McNulty felt, and rightly so, that gaining access to the interior of the automobile for such purposes was not an unreasonable search in violation of the constitutional prohibitions.

Since there was no probable cause to support the issuance of a search warrant and since there was no reasonable prospect of consent, waiver, or release from responsibility, the officers had no other way to perform the duty required of them.

In State v. Ruggles, 245 So. 2d 692 (Fla. App., 1971), the appellee was arrested for a traffic violation of a character requiring the posting of bond. Before impounding the appellee's automobile, the police made an inventory search. Two disposable hypodermic syringes and a container of contraband narcotics were found in the automobile. At a hearing on a motion to suppress, the lower court ruled the inventory was an unreasonable search and seizure.

Judge Carroll of the Third District Court of Appeal of Florida reversed the lower court on authority of Gagnon v. State, supra, and Godbee v. State, supra. Ruggles, supra, was followed in State v. Galloway, 266 So. 2d 53 (Fla. App., 1972) which had very

similar factual circumstances. It involved an inventory search of an automobile prior to impoundment after a lawful arrest.

The State of Florida does not request or expect to receive "licenses" for subsequent "fishing expeditions." The "inventory" will not be viewed by our state as either an alternative to a valid search warrant where only such would meet the constitutional requirements of reason or as a carte blanche replacement for probable cause.

At the Federal Court level in the State of Florida the case of United States v. Pennington, 441 F. 2d 249 (5th Cir., 1971) cert. denied 404 U.S. 854, can be observed. In Pennington the appellant was convicted for violating 15 U.S.C.A. §902(e) - interstate transportation of a firearm by a convicted felon.

In the predawn hours of October 18, 1965, two Miami Beach police officers observed an automobile proceeding at a very high rate of speed. They gave pursuit with siren wailing and emergency lights flashing. Some "twenty-five to thirty city blocks" was necessary to stop the appellant during which the chase achieved great speeds. The automobile was a rental car and the appellant could not produce his driver's license and rental contract.

He was arrested for reckless driving. The car was inventoried prior

to impoundment with Pennington still present after his arrest. This is a standard Maimi Beach police procedure.

The District Court denied a motion to suppress evidence in the form of a pistol found during the inventory.

The Fifth Circuit Court of Appeal, per Circuit Judge Coleman, wrote an enlightening, though short, opinion concerning this procedure. The officers had more than enough circumstances to conduct a search incident to a lawful arrest to determine whether the rental car was the same as the one reported stolen. Likewise, the officers could have secured the area immediately surrounding the appellant after his arrest. (Such was not warranted under these particular facts although a weapon was involved.) But the officers did not make either of these claims. They had enough to book the appellant. The subsequent inventory was made for the sole purpose of satisfying their own procedural requirements. The First Circuit Court of Appeal agreed this procedure is correct and the law enforcement agencies of Florida are continuing to use the same procedure statewide.

The reasonableness of any search without a warrant is measured from the subjective standpoint of the searchers and their individual conduct. If the search was reprehensibly based on the desire to hunt for incriminating evidence, then the searchers would be

suiting themselves in the clothes of the colonial revenue agents which prompted our protocongress to write the Fourth Amendment to the Constitution of the United States.

At the operations level this question has arisen and was asked of the Attorney General of Florida pursuant to the Florida Constitution and Florida law. Sheriff R. W. Weitzenfeld of Manatee County, Florida, asked if he could have an inventory made of an automobile after arresting the driver when it was required that the automobile be impounded. He further asked if evidence of crime discovered during such inventory was usable in a subsequent prosecution. The entire opinion letter is included in the appendix. Summarizing, the Attorney General noted that where the vehicle is impounded to protect property, an inventory may be conducted. Contraband found in the course of an inventory is admissible if there is no evidence indicating that the officers conducting the search were motivated by a desire to uncover incriminating material.

CONCLUSION

It can be seen that the State of Florida does not condone the use of an inventory search as an alternative to a search warrant when there is suspicion that the inventory would reveal incriminating material. It is

required that officers conducting an inventory do so with only the best motives. Included in the appendix of this brief are examples of the forms used by law enforcement agencies throughout our state. They show the standard required by the State of the inventory procedure. The twofold requirement is satisfied by the procedures of the various agencies in Florida.

The State of Florida as a friend of this Court respectfully urges that the decision of the United States Court of Appeals for the Seventh Circuit in re Cady v. Dombrowski be reversed.

Respectfully submitted,

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the State of Florida

A. S. JOHNSTON
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General of the State
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Legal Intern

THE CAPITOL
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AMICUS CURIAE

CERTIFICATE OF SERVICE

I, the undersigned member of the bar of this Court, do hereby certify that on the day of April, 1973, I duly mailed by air mail, postage prepaid, three copies of the foregoing Brief Amici Curiae to:

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Attorney General of Wisconsin

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APP. 1

ROBERT L. SHEVIN
ATTORNEY GENERAL

STATE OF FLORIDA
DEPARTMENT OF LEGAL AFFAIRS
OFFICE OF THE ATTORNEY GENERAL
THE CAPITOL
TALLAHASSEE, FLORIDA 32304

REPRODUCTION COPY

March 5, 1973

073-43

Sheriff R. W. Weitzenfeld
Sheriff of Manatee County
Post Office Box 590
Bradenton, Florida 33505

Re: Impounding automobiles upon the arrest of the operator - conducting inventory of impounded automobiles - legal effect of Attorney General Opinions

Dear Sheriff Weitzenfeld:

You have asked several questions regarding the impounding and inventorying of automobiles upon the arrest of the operator. Your questions are stated as follows:

1. Does a law enforcement officer upon arresting the driver of an automobile have the authority to cause the towing and storage of a defendant's vehicle for safekeeping where there is no other alternative but to tow the vehicle and place it in safekeeping, or leave it beside the road, subject to larceny and vandalism, due to the fact that the driver must be booked into jail?

2. Prior to the pickup and storage of the vehicle, may the officer inventory the vehicle for the protection of the owner, for the protection of the vehicle's operator, for the protection of the tow truck operator, as well as the protection of the arresting officer?

3. Where it is the practice of the law enforcement agency to always inventory each and every vehicle towed in because of being unable to make other disposition of the vehicle and an inventory is conducted and contraband discovered, may the contraband legally be used against the defendant in a court of law?

4. What effect does the Attorney General's opinion have at law?

AS TO QUESTION 1:

Although specific authority to have an automobile towed away has not been expressly provided by statute in Florida, such a practice has been justified, based on the duty of law enforcement officers to protect the property of an arrested suspect where reasonably required by the circumstances. Godbee v. State, 224 So. 2d 441 (2d D.C.A., Fla., 1969), et seq.

Such authority is further indicated by the decisions of federal courts and the courts of other states.

Express recognition of the authority of officers to impound an automobile after arrest is clearly stated in Cotton v. United States, 371 F. 2d 385 (CA 9, 1967). In examining the propriety of police action in impounding the suspect's automobile, the court stated:

> "Cotton having been validly arrested and taken to the police station, the officer would have been derelict in his duty if he had left the car unattended in a dark alley in the middle of the night. The police have as much a duty to protect the property of a suspect as they have to protect the property of the rest of us, and that is what they did in this case by towing the car to the police impound. They also had a duty to keep a record of the property that they had impounded so that it could be returned to the suspect or its owner in due course." (p. 392)

The necessity of having the car towed away would depend upon circumstances such as those you mention, i.e., likelihood of vandalism or larceny which an abandoned car might invite.

Additional authority for seizure of an automobile is provided where there is probable cause to believe that the vehicle is being used in violation of certain state laws. F.S. 562.35 provides for the seizure and forfeiture of vehicles used in violation of the state beverage laws; F.S. 398.24 applies to violation of the uniform narcotic drug law of Florida. F.S. 404.09 authorizes seizure of vehicles being used in violation of Florida's Drug Abuse Law. F.S. 933.19 allows search and seizure of a vehicle used in transporting illegal liquors, drugs or other contraband. All of these sections are governed by the test of probable cause rather than the duty of law enforcement officers to take reasonable steps to protect the property of arrested suspects.

APP. 3

AS TO QUESTION 2:

Authority to inventory the vehicle follows upon the authority to have the vehicle removed. Godbee, supra. Illustrations of the reasonable authority to conduct an inventory are provided in the excerpt from Cotton v. United States, quoted above in the answer to Question 1, and in Heffley v. State, 423 P.,2d 666 (Nev. 1967):

> "The police officer, when there is just cause, has a duty not only to impound a car from a public highway for its own protection, but also to inventory the contents so that they may be safeguarded for the owner. Such practice is deemed necessary to defeat dishonest claims of theft of the car's contents and to protect the temporary storage bailee against false charges." (p. 668)

As with the authority to impound a vehicle, the authority derives from the duty to protect and safeguard the property.

Where circumstances do not require that the vehicle be impounded (and therefore inventoried), F.S. 901.21 might authorize a search of the vehicle incident to a lawful arrest. The Florida Supreme Court has held that F.S. 901.21 allows an incidental search of a vehicle which reasonably ensues after a legal arrest. State v. Gustafson, 258 So. 2d 1 (Fla. 1972).

AS TO QUESTION 3:

The individual is protected by the fourth amendment from unreasonable searches. Thus, where a search is too remote in time and place to have been made as incidental to the arrest, then it will be found to have violated the test of reasonableness under the fourth amendment. Preston v. United States, 376 U.S. 364, 11 L. Ed. 2d 777, 84 S. Ct. 881 (1964). But see Chambers v. Maroney, 399 U.S. 42, 26 L. Ed. 2d 419, 90 S. Ct. 1975 (1970), holding fruits of a noncontemporaneous search admissible. See also Ackles v. State, opinion filed December 12, 1972 (4th D.C.A., Fla. 1972), for a recent statement of the law in Florida with regard to "probable cause" and search as "incident" to a lawful arrest.

APP. 4

A search, in the constitutional sense, however, implies some exploratory investigation. See Fagundes v. United States, 340 F. 2d 673 (1st Cir. 1965). A proper inventory will not include this element of exploratory investigation. Thus, where there is a lawful arrest and where circumstances require an impoundment and subsequent inventory, any contraband found in the course of a routine inventory would be admissible as evidence. An exposition of the rationale behind such admissibility is provided by the Washington Supreme Court in State v. Montague, 438 P. 2d 571 (Wash. 1968):

> "When, however, the facts indicate a lawful arrest, followed by an inventory to or following the impoundment of the car, and there is found to be reasonable and proper justification for such impoundment, and where the search is not made as a general exploratory search for the purpose of finding evidence of crime but is made for the justifiable purpose of finding, listing, and securing from loss, during the arrested person's detention, property belonging to him, then we have no hesitancy in declaring such inventory reasonable and lawful, and evidence of crime will not be suppressed." 438 P. 2d at 574.

Case authority in Florida indicates the apparent view of courts in this state that an inventory is not a search in the constitutional sense of the word, and, consistent with the rationale of the language in the Montague opinion quoted above, Florida courts will admit evidence of crime obtained in a proper inventory search. State v. Galloway, 266 So. 2d 53 (3rd D.C.A., Fla., 1972); Christian v. State, 265 So. 2d 83 (3rd D.C.A., Fla., 1972); State v. Ruggles, 245 So. 2d 692 (3rd D.C.A. Fla., 1971); Godbee v. State, 224 So. 2d 441 (2d D.C.A., Fla., 1969); Knight v. State, 212 So. 2d 900 (3rd D.C.A., Fla., 1968); and State v. Holmes, 256 So. 2d 32 (2d D.C.A., Fla., 1972)(distinguishing an inventory search).

It should be noted, however, that a significant and potentially fatal distinction exists between an inventory search and an exploratory search. See St. Clair v. State, 232 A. 2d 565 (Md. App. 1967); Godbee, supra. See Urquhart v. State, 261 So. 2d 535 (2d D.C.A., Fla., 1971) for an excellent discussion of the jurisprudential aspects of the inventory search theory.

There, in the opinion on rehearing, Judge Mann, District Judge, issued an appropriate warning to law enforcement officials:

> ". . .[A]s an abstract matter of law, what is found . . . should not have any bearing on the determination of the question of whether the police had a right to impound the car and search it. That question is not yet fully explored, and before its clarification is complete some law enforcement officers may be embarrassed if they view the inventory search as a new excuse for not getting a search warrant." Cf. Courington v. State, Fla., 1954, 74 So. 2d 652.

Thus, as indicated by the opinions above, the admissibility of any evidence found is destroyed if the impoundment was unjustified or the search was intended to uncover incriminating evidence. Additionally, where there is reason to suspect contraband, a search may be justified by Fla. Stat. §933.19 (1971) and anything found would be admissible based upon the reasonability of the search without regard to the necessity to impound.

AS TO QUESTION 4:

Your question regarding the effect of Attorney General Opinions is discussed at 3 Fla. Jur., Attorney General, Section 7:

> "Although the opinions of the Attorney General have in no sense the effect of judicial utterances, in actual practice they are usually followed. His opinion, while not binding on the courts, is entitled to weight in construing the Florida statutes. And his official opinions as to the validity or invalidity of a statute are the guides for state executive and administrative officers in performing their official duties until superseded by judicial decisions."

APP. 6

SUMMARY

The impounding of vehicles after the arrest of the operator may be required to protect the property of the suspect. The vehicle may be seized if there is probable cause to believe that it is being used in violation of certain specific statutes.

Where the vehicle is impounded to protect the property, an inventory of the vehicle may be conducted to complete this protection. Additionally, an active search for contraband may be conducted where it is reasonably suspected.

Contraband found in the course of an inventory is admissible if the impoundment and inventory were necessary, and there is no evidence indicating that an intent to uncover incriminating evidence was the motivation for the inventory. Where a search is conducted reasonably incident to an arrest or based upon probable cause to suspect contraband, any contraband found would be likewise admissible.

Attorney General opinions, while not binding on the courts, are entitled to weight in construing Florida statutes and are guides for state executive and administrative officers in performing their official duties until superseded by judicial decisions.

Sincerely yours,

ROBERT L. SHEVIN
Attorney General

Prepared by:

AL S. JOHNSTON
Assistant Attorney General

APP. 7

OTHER DEPT CASE NO

HOMESTEAD POLICE DEPT.
HOMESTEAD, FLORIDA
VEHICLE STORAGE RECEIPT

YEAR	MAKE	BODY TYPE (2 DR CONV ETC.)	LICENSE TAG INFORMATION	YEAR	STATE	NUMBER

MOTOR NUMBER (1964 AND UNDER)

SERIAL NUMBER (1965 AND OVER)

LOCATION VEHICLE TOWED FROM

NAME AND ADDRESS OF GARAGE TAKEN TO

DATE AND TIME TOWED IN	REASON IMPOUNDED	OPERATOR'S NAME	ADDRESS	PHONE

HOLD FOR: (Use only if authorized by unit supervisor affected)

DETECTIVE BUREAU _____ Section ☐
LABORATORY BUREAU ..... ☐
SPECIAL ENFORCEMENT SECTION ..... ☐
OTHER (State Which) _____ ☐

IF HELD FOR LABORATORY BUREAU, INDICATE WHICH SECTION, UNIT, OR INDIVIDUAL REQUESTED PROCESSING.

SECTION	UNIT	INDIVIDUAL

JOINT PROPERTY INVENTORY TAKEN BY OFFICERS AND TOW DRIVER (CHECK APPROPRIATE ITEMS)

RADIO	HEATER	SPARE TIRE	SPOTLIGHT	HUBCAPS	FOGLIGHTS	MIRRORS	REGISTRATION PAPERS

MISCELLANEOUS PROPERTY IN VEHICLE (TOOLS CLOTHES ETC.)

STANDARD PARTS MISSING FROM VEHICLE (WHEELS HEATER LIGHTS GENERATOR ETC.)

DAMAGE TO VEHICLE (DENTED FENDERS BROKEN WINDOWS ETC.)

SIGNATURE OF OWNER AND OR DRIVER IF RELEASED AT SCENE

WE, THE UNDERSIGNED OFFICER(S) AND TOW TRUCK DRIVER(S), HEREBY CERTIFY THAT THE ABOVE LISTED JOINT PROPERTY INVENTORY IS CORRECT TO THE BEST OF OUR KNOWLEDGE.

Signature _____
TOW TRUCK DRIVER

OWNER DRIVER

IMPOUNDING OFFICER(S)

BADGE NO. _____ DEPT. _____

GENERAL INSTRUCTIONS TO GARAGES OF IMPOUNDMENT AND VEHICLE OWNERS

1. As a result of the approval of Resolution No. 2557 by the Dade County Board of County Commissioners on December 16, 1958, no vehicle will be released from your custody except upon presentation of written authority from the Homestead Police Department, 711 N. E. First Road, Homestead, Florida 33030.
2. Vehicle releases may be obtained 24 hours a day, Saturdays, Sundays and holidays included.
3. Vehicle registration and title, or copy of title, must be presented as proof of ownership at time owner applies for release of vehicle. Telephone inquiries may be directed to 247-1535.

HPD-6

VEHICLE STORAGE RECEIPT

APP. 8

OTHER DEPT. CASE NO.

PUBLIC SAFETY DEPARTMENT
DADE COUNTY, FLORIDA
VEHICLE STORAGE RECEIPT

CASE NO.

YEAR	MAKE	BODY TYPE (4-dr., conv., etc.)	LICENSE TAG INFORMATION: YEAR	STATE	NUMBER

MOTOR NUMBER (If no A/C write "none")

SERIAL NUMBER (If none write "none")

LOCATION VEHICLE TOWED FROM

NAME AND ADDRESS OF GARAGE TAKEN TO

DATE AND TIME TOWED IN	REASON IMPOUNDED	OPERATOR'S NAME	ADDRESS	PHONE

HOLD FOR: (Use only if authorized unit supervisor affected)

- ☐ DETECTIVE BUREAU _____ Section
- ☐ LABORATORY BUREAU
- ☐ SPECIAL ENFORCEMENT SECTION
- ☐ OTHER (State Which) _____

IF HELD FOR LABORATORY BUREAU, INDICATE WHICH SECTION, UNIT, OR INDIVIDUAL REQUESTED PROCESSING.

SECTION	UNIT	INDIVIDUAL

JOINT PROPERTY INVENTORY TAKEN BY OFFICERS AND TOW DRIVER (CHECK APPROPRIATE ITEMS)

RADIO	HEATER	SPARE TIRE	SPOTLIGHT	HUBCAPS	FOGLIGHTS	MIRRORS	REGISTRATION PAPERS

MISCELLANEOUS PROPERTY IN VEHICLE (TOOLS, CLOTHES, ETC.)

STANDARD PARTS MISSING FROM VEHICLE (WHEELS, HEATER, LIGHTS, SEPARATORS, ETC.)

DAMAGE TO VEHICLE (DENTED FENDERS, BROKEN WINDOWS, ETC.)

SIGNATURE OF OWNER AND/OR DRIVER IF RELEASED AT SCENE

WE, THE UNDERSIGNED OFFICER(S) AND TOW TRUCK DRIVER(S), HEREBY CERTIFY THAT THE ABOVE LISTED JOINT PROPERTY INVENTORY IS CORRECT TO THE BEST OF OUR KNOWLEDGE.

Signature _____ TOW TRUCK DRIVER

_____ IMPOUNDING OFFICER(S)

_____ RELEASED TO OWNER/DRIVER AT GARAGE

BADGE NO. _____ DEPT. _____

GENERAL INSTRUCTIONS TO GARAGES OF IMPOUNDMENT AND VEHICLE OWNERS

1. As a result of a Modified and amended Resolution No. 11314 and Administrative Order No. 14-69, Dated June 3, 1969, all vehicles without HOLD ORDERS are turned over direct to the garages at date of impoundment and may be released directly by the garage.

2. Vehicles with HOLD ORDERS must have a written authorization of release from the Public Safety Department. Release may be obtained 24 hours per day at:
   a. South District Station, 9800 E. Fava Street, Perrine, 235-7111.
   b. Central District Station, 1320 N. W. 14 Street, Miami, 377-7716.
   c. Port Authority District, Miami International Airport, 633-2696.
   d. North District Station, 16770 N. W. 37th Avenue, 624-8581.

3. A copy of the Vehicle Storage Receipt must be presented to obtain the release or the owner must show Title or Current Registration and proof of identity such as a current drivers license, and/or proof of agency before the vehicle will be released. Telephone inquiries directed to 377-7716 and 377-7741.

THE VEHICLE STORAGE RECEIPT

PROPERTY COPY

114 02 30

APP. 9

OTHER DEPT. CASE NO.

SHERIFF'S DEPARTMENT
BROWARD COUNTY, FLORIDA

VEHICLE STORAGE RECEIPT

CASE NO.

YEAR	MAKE	BODY TYPE (2-dr., conv., etc.)	LICENSE TAG INFORMATION YEAR	STATE	NUMBER

MOTOR NUMBER (Give and verify)

SERIAL NUMBER (Give and verify)

LOCATION VEHICLE TOWED FROM

NAME AND ADDRESS OF GARAGE TAKEN TO

DATE AND TIME TOWED IN	REASON IMPOUNDED	OPERATOR'S NAME	ADDRESS	PHONE

HOLD FOR: (Use only if authorized by unit supervisor affected)

DETECTIVE BUREAU _____ Section ☐
LABORATORY BUREAU ☐
SPECIAL ENFORCEMENT SECTION ☐
OTHER (State Which) _____ ☐

IF HELD FOR LABORATORY BUREAU, INDICATE WHICH SECTION, UNIT, OR INDIVIDUAL REQUESTED PROCESSING.

SECTION UNIT INDIVIDUAL

JOINT PROPERTY INVENTORY TAKEN BY OFFICERS AND TOW DRIVER (Check appropriate items)

RADIO	HEATER	SPARE TIRE	SPOTLIGHT	HUBCAPS	FOGLIGHTS	MIRRORS	REGISTRATION PAPERS

MISCELLANEOUS PROPERTY IN VEHICLE (Tools, clothes, etc.)

STANDARD PARTS MISSING FROM VEHICLE (Wheels, heater, lights, generator, etc.)

DAMAGE TO VEHICLE (Dented fenders, broken windows, etc.)

SIGNATURE OF OWNER AND/OR DRIVER IF RELEASED AT SCENE

WE, THE UNDERSIGNED OFFICER(S) AND TOW TRUCK DRIVER(S), HEREBY CERTIFY THAT THE ABOVE LISTED JOINT PROPERTY INVENTORY IS CORRECT TO THE BEST OF OUR KNOWLEDGE.

Signature _____ TOW TRUCK DRIVER

_____ OWNER/DRIVER

_____ IMPOUNDING OFFICER(S)

BADGE NO. _____ DEPT. _____

GENERAL INSTRUCTIONS TO GARAGES OF IMPOUNDMENT AND VEHICLE OWNERS

1. Authority for release of vehicles may be obtained 24 hours a day from Sheriff's office.
2. Vehicle registration and title, or copy of title, MUST be presented as proof of ownership at time owner applies for release of vehicle. Telephone inquiries may be directed to 525-4321 Ext. 211.

VEHICLE STORAGE RECEIPT

PPD #12

APP. 10

1. PROPERTY CARD No.

SARASOTA COUNTY SHERIFF'S DEPT.
VEHICLE STORAGE RECEIPT

2. CASE No.

3. YEAR | 4. MAKE | 5. BODY TYPE (4 DR., CONV., ETC.) | 6. LICENSE TAG INFORMATION: YEAR | STATE | NUMBER

7. MOTOR NUMBER (TRK AND DRIVE) | 8. SERIAL NUMBER (TRK AND DRIVE)

9. LOCATION VEHICLE TOWED FROM | 10. NAME AND ADDRESS OF GARAGE TAKEN TO

11. DATE AND TIME TOWED IN | 12. REASON IMPOUNDED | 13. OPERATOR'S NAME | ADDRESS | PHONE

14. HOLD FOR: (Use only if authorized by unit supervisor affected)
DETECTIVE BUREAU _____ Section ☐
CRIME LABORATORY ☐
CRIME SCENE TECH. ☐
OTHER (State Which) _____ ☐

15. SPECIAL INSTRUCTIONS:

16. JOINT PROPERTY INVENTORY TAKEN BY OFFICERS AND TOW DRIVER (CHECK APPROPRIATE ITEMS)

RADIO	HEATER	SPARE TIRE	BUMPERS	HUBCAPS	WINDOWS	AIR COND.	REGISTRATION PAPERS

17. MISCELLANEOUS PROPERTY IN VEHICLE (TOOLS, CLOTHING, ETC.)

18. STANDARD PARTS MISSING FROM VEHICLE (WHEELS, HEATER, LIGHTS, GENERATOR, ETC.)

19. DAMAGE TO VEHICLE (DENTED FENDERS, BROKEN WINDOWS, ETC.)

20. SIGNATURE OF OWNER AND/OR DRIVER IF RELEASED AT SCENE

21. WE, THE UNDERSIGNED DEPUTY(S) AND TOW TRUCK DRIVER(S), HEREBY CERTIFY THAT THE ABOVE LISTED JOINT PROPERTY INVENTORY IS CORRECT TO THE BEST OF OUR KNOWLEDGE.

Signature _____ TOW TRUCK DRIVER | IMPOUNDING DEPUTY(S)

OWNER/DRIVER | I.D. NO. _____ DEPT. _____

GENERAL INSTRUCTIONS TO GARAGES OF IMPOUNDMENT AND VEHICLE OWNERS

NOTE: Vehicle registration or title, or copy of title, must be presented as proof of ownership at time the owner applies for release of vehicle. Telephone inquiries may be directed to:

SARASOTA COUNTY SHERIFF'S DEPT

VEHICLE STORAGE RECEIPT

APP. 11

OTHER DEPT. CASE NO.

TALLAHASSEE POLICE DEPARTMENT VEHICLE STORAGE RECEIPT

CASE NO.

YEAR	MAKE	BODY TYPE (2-DR., CONV., ETC.)	LICENSE TAG INFORMATION	YEAR	STATE	NUMBER

MOTOR NUMBER (ITEM 4) AND MAKE | SERIAL NUMBER (ITEM 5) AND MAKE

LOCATION VEHICLE TOWED FROM | NAME AND ADDRESS OF GARAGE TAKEN TO

DATE AND TIME TOWED IN	REASON IMPOUNDED	OPERATOR'S NAME	ADDRESS	PHONE

HOLD FOR:

DETECTIVE BUREAU _____ Section ☐
LABORATORY BUREAU ..... ☐
SPECIAL ENFORCEMENT SECTION ..... ☐
OTHER (State Which) _____ ☐

IF HELD FOR LABORATORY BUREAU, INDICATE WHICH SECTION, UNIT, OR INDIVIDUAL REQUESTED PROCESSING.

SECTION | UNIT | INDIVIDUAL

JOINT PROPERTY INVENTORY TAKEN BY OFFICERS AND TOW DRIVER (CHECK APPROPRIATE ITEMS)

RADIO	HEATER	SPARE TIRE	SPOTLIGHT	HUBCAPS	FOGLIGHTS	WINDOWS	REGISTRATION PAPERS

MISCELLANEOUS PROPERTY IN VEHICLE (TOOLS, CLOTHES, ETC.)

STANDARD PARTS MISSING FROM VEHICLE (SHIELD, HEATER, LIGHTS, GENERATOR, ETC.)

DAMAGE TO VEHICLE (DENTED FENDERS, BROKEN WINDOWS, ETC.)

SIGNATURE OF OWNER AND/OR DRIVER IF RELEASED AT SCENE

WE, THE UNDERSIGNED OFFICER(S) AND TOW TRUCK DRIVER(S), HEREBY CERTIFY THAT THE ABOVE LISTED JOINT PROPERTY INVENTORY IS CORRECT TO THE BEST OF OUR KNOWLEDGE.

Signature _____ TOW TRUCK DRIVER

_____ OWNER/DRIVER

_____ IMPOUNDING OFFICER(S)

BADGE NO. _____ DEPT. _____

GENERAL INSTRUCTIONS REGARDING IMPOUNDMENT OF VEHICLES

1. This form will be used to record, identify and receipt all motor vehicles impounded.
2. Vehicles previously reported stolen inside the City limits and recorded on CRIME AGAINST PROPERTY REPORT, will require this form only to indicate recovery.
3. This form will be used to impound Abandoned Autos and vehicles stolen outside the City Limits and not previously reported to this Department.

DISPOSITION	RECEIVED	RELEASED	STORAGE			
ME	●	●	●			
FWHS	●	●	●			

APP. 12

SARASOTA COUNTY SHERIFF'S DEPT.

PROPERTY RECEIPT

1. ☐ PROPERTY OF DECEASED (PROBATE) 2. ☐ FOUND PROPERTY
☐ TRIAL ☐ LABORATORY EVIDENCE ☐ STOLEN-RECOVERED

3. CASE NO.	4. DATE-TIME FOUND	5. STORED	6. BIN NO.	PROPERTY CARD NO.

7. ADDRESS WHERE PROPERTY IMPOUNDED (Give exact location where property was located)

8. DISCOVERED BY (Name)	ADDRESS	PHONE NO.
9. OWNER'S NAME	ADDRESS	PHONE NO.

10. ITEM NO.	11. QUANTITY	12. VALUE	13. DESCRIPTION
		TOTAL	

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt.

14. SIGNATURE

15. RECEIVED BY

16. RECEIVED BY

I hereby acknowledge that the above list represents all property impounded by me in the official performance of duty as a Deputy Sheriff.

DIVISION _____ I.D. NO. _____

18. IMPOUNDING OFFICER

19. REASON 21. DATE AND TIME RECEIVED

20. REASON 22. DATE AND TIME RECEIVED

APP. 13

HOMESTEAD POLICE DEPARTMENT

DADE COUNTY, FLORIDA

PROPERTY RECEIPT

HPD-9

☐ PROPERTY OF DECEASED (PROBATE) ☐ FOUND PROPERTY 78.

☐ TRIAL ☐ LABORATORY EVIDENCE ☐ STOLEN-RECOVERED

2. CASE NO.	79. DATE-TIME IMPOUNDED	75 VAULT NO.	BIN NO.	INVENTORY NO.

77. ADDRESS WHERE PROPERTY IMPOUNDED (Give exact location where property was located).

16. DISCOVERED BY (Name)	ADDRESS	PHONE NO.

69. OWNER'S NAME	ADDRESS	PHONE NO.

80. ITEM NO.	81. QUANTITY	82. DESCRIPTION

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt.

11. SIGNATURE (X)

I hereby acknowledge that the above list represents all property impounded by me in the official performance of duty as a Deputy Sheriff.

DISTRICT OR DIVISION_____ BADGE NO._____

IMPOUNDING OFFICER (X)

14. RECEIVED BY	REASON	DATE AND TIME RECEIVED

RECEIVED BY	REASON	DATE AND TIME RECEIVED

APP. 14

TALLAHASSEE POLICE DEPT.

DEPT. CASE NO

RECEIPT FOR PROPERTY ☐ EVIDENCE ☐

TPD CASE NO.

BIN NO | TYPE OF CASE | ADDRESS WHERE PROPERTY IMPOUNDED

REASON FOR IMPOUNDMENT | DATE AND TIME IMPOUNDED

ITEM NO	QUANTITY	DESCRIPTION

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt.

SIGNATURE

X

I hereby acknowledge that the above list represents all property impounded by me in the official performance of duty as a City Police Officer.

IMPOUNDING OFFICER | I.D. NO. | DIVISION

X

RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
FINAL DISPOSITION	AUTHORITY	DATE AND TIME OF DISPOSITION

APP. 15

PUBLIC SAFETY DEPT.
DADE COUNTY, FLORIDA

PROPERTY RECEIPT

☐ PROPERTY OF DECEASED (PROBATE) ☐ FOUND PROPERTY 78.
☐ TRIAL ☐ LABORATORY EVIDENCE ☐ STOLEN-RECOVERED

CASE NO.	79. DATE - TIME IMPOUNDED	75. VAULT NO.	BIN NO.	INVENTORY NO
ADDRESS WHERE PROPERTY IMPOUNDED (Give exact location where property was located).				76. TYPE OF CASE
DISCOVERED BY (Name)	ADDRESS			PHONE NO.
OWNER (NAME)	ADDRESS			PHONE NO.

ITEM NO.	81. QUANTITY	82. DESCRIPTION

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt.

SIGNATURE (X)

I hereby acknowledge that the above list represents all property impounded by me in the official performance of duty as a Deputy Sheriff.

DISTRICT OR DIVISION _____ BADGE NO. _____

IMPOUNDING OFFICER (X)

RECEIVED BY (Print on back)	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED
RECEIVED BY	REASON	DATE AND TIME RECEIVED

(REV. 10/72)

APP. 16

SHERIFF'S DEPARTMENT
BROWARD COUNTY, FLORIDA

PROPERTY RECEI

70. ☐ PROPERTY OF DECEASED	☐ TRIAL	☐ FOUND PROPERTY	☐ LABORATORY (ATTACH SIGNED)	☐ STOLEN - RECOVERED
2. CASE NO.	79. DATE - TIME RECEIVED	8H. ARREST NO.	76. TYPE OF CASE	

77. ADDRESS WHERE PROPERTY IMPOUNDED (GIVE EXACT LOCATION WHERE FOUND)

16. FOUND BY	ADDRESS	PHONE NO.
31. SUSPECT(S) (GIVE FULL NAME)	ADDRESS	PHONE NO.
14. VICTIM	ADDRESS	PHONE NO.
48. OWNER'S NAME	ADDRESS	PHONE NO.

80. ITEM NO.	81. QTY.	82. DESCRIPTION

83. I HEREBY ACKNOWLEDGE THAT THE ABOVE LIST REPRESENTS ALL PROPERTY TAKEN FROM MY POSSESSION AND THAT I HAVE RECEIVED A COPY OF THIS RECEIPT.

SIGNATURE (X) _____

28. I HEREBY ACKNOWLEDGE THAT THE ABOVE LIST REPRESENTS ALL PROPERTY IMPOUNDED BY ME IN THE OFFICIAL PERFORMANCE OF MY DUTY AS A DEPUTY SHERIFF.

DIVISION _____ BADGE NO. _____

IMPOUNDING OFFICER (X) _____

84. RECEIVED BY	REASON	DATE AND TIME RECEIVED

BSO - ABC - NO. 11

LEON COUNTY SHERIFFS DEPARTMENT

INVENTORY RECORD OF SEIZED VEHICLE AND PROPERTY

Case No. _____

Where seized _____ Date seized _____

Seized from: _____

Participating Officers: _____

Seized for violation of: _____

_____

Make: _____ Body Style: _____ Year _____

Serial No. _____ Engine No. _____ No. of Cylinders _____

License Tag No. _____ Year _____ State _____

General Condition of Vehicle? _____ Estimated Value _____

Does it have?

Radio _____ Make _____ Serial No. _____

Heater _____ Air Conditioning _____ Spare tire _____

List any other accessories or equipment which are worth more than five dollars ($5.00) ____

_____

_____

_____

List any other property seized in connection with this case, such as raw materials, still apparatus, etc. _____

_____

_____

RECEIVED THE PROPERTY DESCRIBED ABOVE ON THE

_____ DAY OF _____ A. D. 19 _____

For the Board of County Commissioners
of Leon County

_____
Authorized Agent for Board of County Commissioners

WITNESS:

_____
Reporting Officer

_____
Title

Car is located at _____

APP. 10

ORLANDO POLICE DEPARTMENT	VEHICLE STORAGE REPORT AND INVENTORY	Complaint No.

REASON FOR IMPOUNDMENT:

Stolen: _____
Abandoned or Junker _____
Involved in Accident _____
Traffic Hazard _____
Owner/Driver Arrested _____
Involved in other offense: Explain

DATE: TIME:
TOWED FROM: (location)
LOCATION OF KEYS:
DESCRIBE VEHICLE: Make Model Yr.
Color
Tag No. State/Expires
Motor or I.D. No.
Damage (if any, location)

Summons No.	Parking Ticket No.	A.I. Report No.

Arrest Report No. Offense Report No.

Other Report (Explain) Number

Registered Owner or Driver (Circle one)

Name and Address

VEHICLE ON HOLD FOR FURTHER INVESTIGATION: YES____ NO____

ASSISTANCE REQUESTED FROM: (CIB, Ident., or whom)

RELEASE UPON PROOF OF OWNERSHIP: YES____ NO____

TOW TICKET NUMBER: STORAGE GARAGE:

WRECKER DRIVER'S SIGNATURE:

RELEASED BY: TIME DATE

RELEASED TO: PRINT NAME AND ADDRESS:

Signature of party to whom released:

REMARKS: Use only to explain above. INVENTORY MUST BE LISTED ON REVERSE SIDE

VEHICLE INVENTORY LISTED ON REVERSE: YES____ NO____

PROPERTY REMOVED FROM VEHICLE AND PLACED IN STORAGE: YES____ NO____

REASON: Evidence _____
Contraband _____
Valuable _____
Perishable _____
Other _____

PROPERTY RECEIPT NUMBER:

Officers Signature Number

Supervisor